

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 05-0542
Sales and Use Tax
For The Tax Period 2002-2004

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ISSUE

I. Sales and Use Tax - Imposition

Authority: IC 6-8.1-5-1 (b); IC § 6-2.5-2-1; IC § 6-2.5-4-4(a).

The taxpayer protests the assessment of sales tax.

STATEMENT OF FACTS

The Taxpayer is a not-for-profit organization which qualifies as exempt from income tax by authority of IRC § 501 (c)(8). It maintains a club facility with a banquet hall, bar, kitchen, and game room. The Taxpayer remitted sales tax on some of its sales. The Indiana Department of Revenue, hereinafter referred to as the "Department," assessed sales tax, interest, and penalty on the remaining sales. The Taxpayer protested the assessment of sales tax. Although notified of the time and date of the hearing, the Taxpayer chose to not participate. Therefore, this Letter of Findings is based on the documentation in the file.

1. Sales and Use Tax -Imposition

Discussion

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1 (b).

Indiana imposes a sales tax on the transfer of tangible personal property in a retail transaction. IC § 6-2.5-2-1. The rental of a banquet hall for less than thirty days is subject to the imposition of sales tax. IC § 6-2.5-4-4(a).

The Taxpayer's rental of the banquet hall and sales of meals is subject to sales tax. The Taxpayer failed to sustain its burden or proving that the Department erred in imposing the sales tax on its rental of the banquet hall and sales of meals.

Finding

The Taxpayer's protest to the assessment of sales tax is respectfully denied.